

Message Text

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PAGE 01 LISBON 06720 121608Z
ACTION XMB-04

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E.O. 11652: N/A
TAGS: EFIN, MZ, PO
SUBJ: EXIM DISCUSSION OF SENA'S DEBTS WITH BANCO DE MOCAMBIQUE

REF: STATE 225730

1. EMBASSY HAS EXAMINED DECREE LAWS CITED IN PARA 5 OF
REFTEL, AFTER WHICH WE MET SEPTEMBER 8 WITH MR. PEREIRA DO
VALE OF SIDUL TO CLARIFY THE POINTS RAISED IN PARA 7
REFTEL.

2. THE DECREES STATE THAT ASSETS SITUATED IN PORTUGAL OF A
FOREIGN COMPANY THAT HAS BEEN NATIONALIZED BY SOME OTHER
COUNTRY ARE TO BE CONSIDERED APPLICABLE TO THE DEBTS WHICH
THAT COMPANY HAS IN PORTUGAL. FURTHERMORE, THE PORTUGUESE
PARTNERS OR PARTNERS RESIDING IN PORTUGAL THAT REPRESENT
AT LEAST FIVE PERCENT OF THE REGISTERED CAPITAL MAY CALL
A MEETING OF THE PARTNERS TO CONSIDER THE FORMATION OF A NEW
COMPANY WITH THE ASSETS AND LIABILITIES WHICH THE FIRM HAS
IN PORTUGAL. SUCH A MEETING MUST BE ANNOUNCED AT
LEAST 30 DAYS IN ADVANCE. AN ABSOLUTE MAJORITY OF
THE CAPITAL PRESENT OR REPRESENTED AT THE MEETING IS REQUIRED
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PAGE 02 LISBON 06720 121608Z

TO A DECISION ON REORGANIZATION. IF FOUR YEARS PASS WITHOUT THE
FORMATION OF A NEW COMPANY HAVING TAKEN PLACE ALONG THE ABOVE
LINES, THE COURTS MAY ORDER, UPON THE REQUEST OF AN INTERESTED
PARTY OR MINISTRY, THAT THE HOLDINGS IN PORTUGAL BE LIQUIDATED
ACCORDING TO ESTABLISHED PROCEDURES.

3. IN OUR MEETING WITH DO VALE, HE EXPLAINED THAT THE PRINCIPAL

PORTUGUESE SHAREHOLDER OF SENA IS SEPSA, A FIRM WHICH IS CONTROLLED BY HIS FATHER-IN-LAW. SIDUL, ON THE OTHER HAND, IS A SUBSIDIARY OF SENA, OPERATING A SUGAR REFINERY IN PORTUGAL. IT IS SEPSA THAT IS CONSIDERING A REORGANIZATION UNDER THE PROVISIONS OF DECREE LAW 301/77, JULY 27, 1977. FOREIGN --IE., NON-MOZANBIQUE--SHAREHOLDERS OF SENA (INCLUDING THOS IN THE UK) WOULD PRESUMABLY BE INVITED TO JOIN IN THE NEW COMPANY. DO VALE EMPHASIZED THE COMPLICATED NATURE OF THE ISSUE, AND NOTED THAT HE IS CURRENTLY DISCUSSING THE RAMIFICATIONS WITH HIS LAWYERS. HE HAS NOT YET BEGUN A REORGANIZATION ACTION. HE FEELS COMPELLED TO TAKE THE INITIATIVE, HOWEVER, IF RO NO OTHER REASON THAN TO FORESTALL A SIMILAR ATTEMPT BY OTHER PORTUGUESE SHAREHOLDERS. THE DECREE PERMITS THE TAKING OF SUCH ACTION BY A SHAREHOLDER OWNING AS LITTLE AS 5 PERCENT OF THE REGISTERED CAPITAL. DO VALE NOTED THERE ARE OTHER MINOR PORGUGUESE SHAREHOLDERS IN THE NATIONALIZED BANKING AND INSURANCE SECTORS WHICH MIGHT CONCEIVABLY TAKE SUCH ACTION.

4. DO VALE MAINTAINS THAT SENA OBLIGATIONS TO EXIM MUST, IN PRINCIPLE, BE PAID BY THE MOZAMBIQUE GOVERNMENT SINCE THE LOANS WERE UTILIZED IN MOZAMBIQUE, HE THOUGHT THAT GOM ACKNOWLEDGED THIS RESPONSIBILITY. HE EXPRESSED WILLINGNESS TO DISCUSS THE SENA QUESTION FURTHER, AND TO RESPOND TO SPECIFIC QUERIES FROM EMBASSY AND/OR EXIM.

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